

Application Serial No. 10/664,199  
Attorney Docket No. DEP5157  
Group Art Unit: 3733

### **REMARKS**

This present Response is being filed in reply to the Office Action dated November 8, 2005. A petition for a one month extension of time, including the associated fee, are filed herewith to extend the period of response to and including March 8, 2006. In addition, enclosed please find a request for a one month extension of time. Please charge any fees which may be due to Deposit Account No.10-0750/DEP5520USNP/DAL, but do not include any payment of issue fees.

By the present amendment, claims 1, 3, and 7 are amended and claims 2 and 8 are cancelled without prejudice. Claims 1, 3-7, and 9-16 are pending in the application, of which claims 6, 9, and 15 are withdrawn from consideration as being directed to a non-elected Species. Support for the claim amendments can be found throughout the specification and drawings, including the claims as originally filed. No new matter has been added. The amendment/cancellation of claims should in no way be construed to be an acquiescence to any of the rejections. The amendment/cancellation of the claims is being made solely to expedite prosecution of the above-identified patent application. Applicants reserve the option to further prosecute the same or similar claims in the present or subsequent patent applications.

### ***Rejection Pursuant to 35 U.S.C. § 102(e)***

The Office Action rejected claims 1-5, 7, 8, 10-13, 14, and 16 pursuant to 35 U.S.C. § 102(e) as being anticipated by U.S. Patent 6,730,091 of Pfefferle. Applicants respectfully traverse this rejection based on the above amendments and following arguments

### **Independent Claim 1**

By the present amendment, independent claim 1 is amended to recite that the plurality of concentric annular bores in at least one hole formed in the plate include a first bore having a first diameter and a second bore having a second diameter different from the first diameter. Pfefferle does not disclose at least one hole including a plurality of concentric annular bores including a first bore having a first diameter and a second bore having a second diameter different from the first diameter, as recited in independent claim 1.

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Pfefferle describes a plate 1 with a screw hole 4 having an engagement contour 8 therein. The engagement contour 8 includes contour valleys 80 and alternating adjacent contour peaks 81 arranged on the wall of the screw hole 4 and extending parallel to the plate plane. See col. 7, lines 50-55. Pfefferle fails to disclose, teach or suggest that one of the contour valleys 80 and contour peaks 81 of the hole may have a diameter different from another one of the contour valleys 80 and contour peaks 81 of the hole. In contrast, Pfefferle discloses that the contour valleys 80 and contour peaks 81 of a hole have a uniform diameter, as illustrated in FIGURES 2C and 2D. FIGURE 4C, noted by the Office Action, illustrates the bending of the plate illustrated in FIGURES 2A, 2C, and 2D (i.e., a plate having a hole with contour valleys 80 and contour peaks 81 of a uniform diameter) and Pfefferle teaches that the main change in the shape of the plate as a result of the bending takes place in the area of the webs 3 of the plate and that the engagement contour 8, i.e., the contour valleys 80 and contour peaks 81, as a result of limited deformation, does not lose any of its effectiveness. See col. 9, lines 14-20. FIGURE 4C fails to disclose, teach or suggest that one of the contour valleys 80 and contour peaks 81 of the hole may have a diameter different from another one of the contour valleys 80 and contour peaks 81 of the hole. For at least this reason, Applicants do not consider Pfefferle to anticipate the subject matter of independent claim 1. Therefore, Applicants respectfully request that the rejection of claim 1, and claims 3-5 and dependant thereon, under 35 U.S.C. § 102(e) be withdrawn.

#### Independent Claim 7

By the present amendment, independent claim 7 is amended to recite that the plurality of concentric annular bores in at least one hole formed in the plate forms a generally frusta-conically shaped, stepped inner wall surface of the hole. Pfefferle does not disclose a plurality of concentric annular bores in at least one hole formed in the plate that form a generally frusta-conically shaped, stepped inner wall surface of the hole, as recited in independent claim 7.

As discussed above, Pfefferle describes a plate 1 with a screw hole 4 having an engagement contour 8 therein. The engagement contour 8 includes contour valleys 80 and alternating adjacent contour peaks 81 arranged on the wall of the screw hole 4 and extending

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parallel to the plate plane. See col. 7, lines 50-55. Pfefferle fails to disclose, teach or suggest that the contour valleys 80 and contour peaks 81 of the hole form a generally frusta-conically shaped, stepped inner wall surface of the hole. In contrast, Pfefferle discloses that the contour valleys 80 and contour peaks 81 of a hole have a uniform diameter, as illustrated in FIGURES 2C and 2D. FIGURES 7A and 7B, referenced by the Office Action, illustrates a screw hole in which the contour valleys 80 are parallel to one another and the contour peaks 81 are parallel to one another. FIGURES 7A and 7B fail to disclose a plurality of concentric annular bores that form a generally frusta-conically shaped, stepped inner wall surface of the hole. For at least this reason, Applicants do not consider Pfefferle to anticipate the subject matter of independent claim 7. Therefore, Applicants respectfully request that the rejection of claim 7 under 35 U.S.C. § 102(e) be withdrawn.

#### Independent claims 10 and 12

Independent claims 10 and 12 each recite a plate having at least one hole for receiving a bone anchor, the at least one hole having a generally stepped-shaped inner wall surface, a plurality of the steps of the inner wall surface having a generally annular peak and a plurality of the annular peaks being aligned in a generally frusta-conical shape. Pfefferle fails to disclose, teach or suggest a plate having at least one hole for receiving a bone anchor, the at least one hole having a generally stepped-shaped inner wall surface, a plurality of the steps of the inner wall surface having a generally annular peak and a plurality of the annular peaks being aligned in a generally frusta-conical shape, as recited in independent claims 10 and 12.

As discussed above, Pfefferle describes a plate 1 with a screw hole 4 having an engagement contour 8 therein. The engagement contour 8 includes contour valleys 80 and alternating adjacent contour peaks 81 arranged on the wall of the screw hole 4 and extending parallel to the plate plane. See col. 7, lines 50-55. Pfefferle fails to disclose, teach or suggest that the contour valleys 80 and contour peaks 81 of the hole form a generally stepped inner wall surface of the hole or a plurality of annular peaks being aligned in a generally frusta-conical shape. In contrast, Pfefferle discloses that the contour peaks 81 of the hole have a uniform diameter, as illustrated in FIGURES 2C and 2D. FIGURES 7A and 7B, referenced by the Office Action, illustrates a screw hole in which the contour peaks 81 are parallel to one

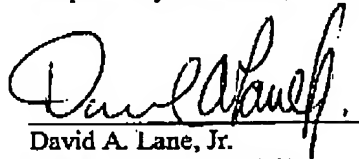
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another, and thus, are arranged in a cylindrical shape. FIGURES 7A and 7B fail to disclose a hole having a generally stepped-shaped inner wall surface, a plurality of the steps of the inner wall surface having a generally annular peak and a plurality of the annular peaks being aligned in a generally frusta-conical shape. For at least this reason, Applicants do not consider Pfefferle to anticipate the subject matter of independent claims 10 and 12. Therefore, Applicants respectfully request that the rejection of claims 10 and 12, and claims 11 and 13 dependant thereon, under 35 U.S.C. § 102(e) be withdrawn.

**Conclusion**

In view of the remarks set forth above, it is respectfully submitted that this application is in condition for allowance. Accordingly, allowance is requested. If there are any remaining issues or the Examiner believes that a telephone conversation with the Applicants' attorney would be helpful in expediting the prosecution of the application, the Examiner is invited to call the undersigned at (508) 880-8488.

Respectfully submitted,



David A. Lane, Jr.  
Registration No. 39,261  
Attorney for Applicant

Johnson & Johnson  
One Johnson & Johnson Plaza  
New Brunswick, NJ 08933-7003  
Customer Number: 000027777

Date: March 7, 2006